

SENATE AMENDMENTS TO SENATE BILL 676

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 5

1 On page 1 of the printed bill, delete lines 10 through 30 and delete pages 2 through 5 and insert:

2 **“SECTION 1. As used in sections 1 to 3 of this 2009 Act:**

3 **“(1) ‘Agricultural hemp seed’ means Cannabis sativa seed that meets any labeling, quality**
4 **and other standards set by the Director of Agriculture and that is intended for sale or is sold**
5 **to, or purchased by, licensed growers for planting.**

6 **“(2) ‘Crop’ means any contiguous field of industrial hemp grown under a single license.**

7 **“(3) ‘Grower’ means a person, joint venture or cooperative that produces industrial**
8 **hemp.**

9 **“(4) ‘Handler’ means a person, joint venture or cooperative that receives industrial hemp**
10 **for processing into commodities, products or agricultural hemp seed.**

11 **“(5) ‘Industrial hemp’:**

12 **“(a) Means all nonseed parts and varieties of the Cannabis sativa plant, whether growing**
13 **or not, that contain a cropwide average tetrahydrocannabinol concentration that does not**
14 **exceed 0.3 percent on a dry weight basis.**

15 **“(b) Means any Cannabis sativa seed that:**

16 **“(A) Is part of a growing crop;**

17 **“(B) Is retained by a grower for future planting; or**

18 **“(C) Is for processing into, or use as, agricultural hemp seed.**

19 **“(c) Does not mean industrial hemp commodities or products.**

20 **“SECTION 2. (1) Industrial hemp production and possession, and commerce in industrial**
21 **hemp commodities and products, are authorized in this state. Industrial hemp is an agricul-**
22 **tural product that is subject to regulation by the State Department of Agriculture.**

23 **“(2) All growers and handlers must have an industrial hemp license issued by the de-**
24 **partment. Growers and handlers engaged in the production of agricultural hemp seed must**
25 **also have an agricultural hemp seed production permit.**

26 **“(3) An application for an industrial hemp license or agricultural hemp seed production**
27 **permit must include:**

28 **“(a) The name and address of the applicant;**

29 **“(b) The name and address of the industrial hemp operation of the applicant;**

30 **“(c) The global positioning system coordinates and legal description for the property used**
31 **for the industrial hemp;**

32 **“(d) If the industrial hemp license or agricultural hemp seed production permit applica-**
33 **tion is by a grower, information sufficient to establish that the industrial hemp crop of the**
34 **applicant will be at least 2.5 acres in size; and**

35 **“(e) Any other information required by the department by rule.**

1 “(4) An industrial hemp license or agricultural hemp seed production permit is valid for
2 a three-year term unless revoked and may be renewed as provided by department rule. An
3 industrial hemp license or agricultural hemp seed production permit is a personal privilege
4 that is nontransferable.

5 “(5) An agricultural hemp seed production permit authorizes a grower or handler to
6 produce and handle agricultural hemp seed for sale to licensed industrial hemp growers and
7 handlers. A seller of agricultural hemp seed shall ensure that the seed complies with any
8 standards set by the Director of Agriculture under ORS 633.511 to 633.750. The department
9 shall make available to growers information that identifies sellers of agricultural hemp seed.

10 “(6) Subject to department guidelines, a grower may retain seed from each industrial
11 hemp crop to ensure a sufficient supply of seed for that grower for the following year. A
12 grower does not need an agricultural hemp seed production permit in order to retain seed
13 for future planting. Seed retained by a grower may not be sold or transferred and does not
14 need to meet the department’s agricultural hemp seed standards.

15 “(7) Every grower or handler must keep records as required by department rule. Upon
16 not less than three days’ notice, the department may subject the required records to in-
17 spection or audit during normal business hours. The department may make an inspection or
18 audit for the purpose of ensuring compliance with:

19 “(a) A provision of this section;

20 “(b) Department rules;

21 “(c) Industrial hemp license or agricultural hemp seed production permit requirements,
22 terms or conditions; or

23 “(d) A final department order directed to the grower’s or handler’s industrial hemp op-
24 erations or activities.

25 “(8) In addition to any inspection conducted pursuant to ORS 561.275, the department
26 may inspect any industrial hemp crop during the crop’s growth phase and take a represen-
27 tative composite sample for field analysis. If a crop contains an average
28 tetrahydrocannabinol concentration exceeding 0.3 percent on a dry weight basis, the depart-
29 ment may detain, seize or embargo the crop as provided under ORS 561.605 to 561.620.

30 “(9) The department may charge growers and handlers reasonable fees as determined by
31 the department. Moneys from fees charged under this subsection shall be deposited to the
32 Department of Agriculture Service Fund and are continuously appropriated to the depart-
33 ment for purposes of carrying out the duties of the department under this section and sec-
34 tion 3 of this 2009 Act.

35 “SECTION 3. (1) In addition to any other liability or penalty provided by law, the State
36 Department of Agriculture may revoke or refuse to issue or renew an industrial hemp li-
37 cense or an agricultural hemp seed production permit and may impose a civil penalty for
38 violation of:

39 “(a) A license or permit requirement;

40 “(b) License or permit terms or conditions;

41 “(c) Department rules relating to growing or handling industrial hemp; or

42 “(d) A final order of the department that is specifically directed to the grower’s or han-
43 dler’s industrial hemp operations or activities.

44 “(2) The department may not impose a civil penalty under this section that exceeds
45 \$2,500. The department shall impose civil penalties under this section in the manner provided

1 by ORS 183.745.

2 “(3) The department may revoke or refuse to issue or renew an industrial hemp license
3 or an agricultural hemp seed production permit for violation of any rule of the department
4 that pertains to agricultural operations or activities other than industrial hemp growing or
5 handling.

6 “(4) A revocation of, or a refusal to issue or renew, an industrial hemp license or an
7 agricultural hemp seed production permit is subject to ORS chapter 183.

8 “**SECTION 4.** ORS 475.005 is amended to read:

9 “475.005. As used in ORS 475.005 to 475.285 and 475.840 to 475.980, unless the context requires
10 otherwise:

11 “(1) ‘Abuse’ means the repetitive excessive use of a drug short of dependence, without legal or
12 medical supervision, which may have a detrimental effect on the individual or society.

13 “(2) ‘Administer’ means the direct application of a controlled substance, whether by injection,
14 inhalation, ingestion or any other means, to the body of a patient or research subject by:

15 “(a) A practitioner or an authorized agent thereof; or

16 “(b) The patient or research subject at the direction of the practitioner.

17 “(3) ‘Administration’ means the Drug Enforcement Administration of the United States Depart-
18 ment of Justice, or its successor agency.

19 “(4) ‘Agent’ means an authorized person who acts on behalf of or at the direction of a man-
20 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public
21 warehouseman or employee of the carrier or warehouseman.

22 “(5) ‘Board’ means the State Board of Pharmacy.

23 “(6) ‘Controlled substance’:

24 “(a) Means a drug or its immediate precursor classified in Schedules I through V under the
25 federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of
26 the term ‘precursor’ in this [subsection] **paragraph** does not control and is not controlled by the use
27 of the term ‘precursor’ in ORS 475.840 to 475.980.

28 “(b) **Does not mean industrial hemp, as defined in section 1 of this 2009 Act, or industrial
29 hemp commodities or products.**

30 “(7) ‘Counterfeit substance’ means a controlled substance or its container or labeling, which,
31 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number
32 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person
33 who in fact manufactured, delivered or dispensed the substance.

34 “(8) ‘Deliver’ or ‘delivery’ means the actual, constructive or attempted transfer, other than by
35 administering or dispensing, from one person to another of a controlled substance, whether or not
36 there is an agency relationship.

37 “(9) ‘Device’ means instruments, apparatus or contrivances, including their components, parts
38 or accessories, intended:

39 “(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or
40 animals; or

41 “(b) To affect the structure of any function of the body of humans or animals.

42 “(10) ‘Dispense’ means to deliver a controlled substance to an ultimate user or research subject
43 by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering,
44 packaging, labeling or compounding necessary to prepare the substance for that delivery.

45 “(11) ‘Dispenser’ means a practitioner who dispenses.

1 “(12) ‘Distributor’ means a person who delivers.

2 “(13) ‘Drug’ means:

3 “(a) Substances recognized as drugs in the official United States Pharmacopoeia, official
4 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement
5 to any of them;

6 “(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of
7 disease in humans or animals;

8 “(c) Substances (other than food) intended to affect the structure or any function of the body
9 of humans or animals; and

10 “(d) Substances intended for use as a component of any article specified in paragraph (a), (b)
11 or (c) of this subsection; however, the term does not include devices or their components, parts or
12 accessories.

13 “(14) ‘Electronically transmitted’ or ‘electronic transmission’ means a communication sent or
14 received through technological apparatuses, including computer terminals or other equipment or
15 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
16 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

17 “(15) ‘Manufacture’ means the production, preparation, propagation, compounding, conversion
18 or processing of a controlled substance, either directly or indirectly by extraction from substances
19 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
20 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
21 relabeling of its container, except that this term does not include the preparation or compounding
22 of a controlled substance:

23 “(a) By a practitioner as an incident to administering or dispensing of a controlled substance in
24 the course of professional practice; or

25 “(b) By a practitioner, or by an authorized agent under the practitioner’s supervision, for the
26 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

27 “(16) ‘Marijuana’:

28 “(a) **Except as provided in this subsection**, means all parts of the plant Cannabis family
29 Moraceae, whether growing or not; the resin extracted from any part of the plant; and every com-
30 pound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin.

31 “(b) [It] Does not [include] **mean** the mature stalks of the plant, fiber produced from the stalks,
32 oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative,
33 mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or
34 cake, or the sterilized seed of the plant which is incapable of germination.

35 “(c) **Does not mean industrial hemp, as defined in section 1 of this 2009 Act, or industrial**
36 **hemp commodities or products.**

37 “(17) ‘Person’ includes a government subdivision or agency, business trust, estate, trust or any
38 other legal entity.

39 “(18) ‘Practitioner’ means physician, dentist, veterinarian, scientific investigator, certified nurse
40 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law
41 to dispense, conduct research with respect to or to administer a controlled substance in the course
42 of professional practice or research in this state but does not include a pharmacist or a pharmacy.

43 “(19) ‘Prescription’ means a written, oral or electronically transmitted direction, given by a
44 practitioner for the preparation and use of a drug. When the context requires, ‘prescription’ also
45 means the drug prepared under such written, oral or electronically transmitted direction. Any label

1 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-
2 nently display a warning that the removal thereof is prohibited by law.

3 “(20) ‘Production’ includes the manufacture, planting, cultivation, growing or harvesting of a
4 controlled substance.

5 “(21) ‘Research’ means an activity conducted by the person registered with the federal Drug
6 Enforcement Administration pursuant to a protocol approved by the United States Food and Drug
7 Administration.

8 “(22) ‘Ultimate user’ means a person who lawfully possesses a controlled substance for the use
9 of the person or for the use of a member of the household of the person or for administering to an
10 animal owned by the person or by a member of the household of the person.

11 **“SECTION 5.** ORS 561.144 is amended to read:

12 **“561.144.** (1) The State Treasurer shall establish a Department of Agriculture Service Fund,
13 which shall be a trust fund separate and distinct from the General Fund. The State Department of
14 Agriculture shall deposit all license and service fees paid to it under the provisions of the statutes
15 identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State
16 Treasurer is the custodian of this trust fund, which shall be deposited by the treasurer in such de-
17 positories as are authorized to receive deposits of the General Fund, and which may be invested by
18 the treasurer in the same manner as authorized by ORS 293.701 to 293.820.

19 **“(2)** Interest received on deposits credited to the Department of Agriculture Service Fund shall
20 accrue to and become a part of the Department of Agriculture Service Fund.

21 **“(3)** The license and service fees subject to this section are those described in ORS 561.400,
22 561.740, 570.710, 571.057, 571.063, 571.145, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050, 586.270,
23 586.580, 586.650, 596.030, 596.100, 596.311, 599.235, 599.269, 599.406, 599.610, 601.040, 602.090, 603.025,
24 603.075, 616.706, 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730, 622.080,
25 625.180, 628.240, 632.211, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015, 633.029,
26 633.318, 633.362, 633.461, 633.471, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126, 634.132,
27 634.136, 634.212 and 635.030 **and section 2 of this 2009 Act.**

28 **“SECTION 6.** For the biennium beginning July 1, 2009, the State Department of Agricul-
29 ture shall carry out the duties, functions and powers of the department under sections 1 to
30 3 of this 2009 Act only to the extent the department determines it to be practicable to carry
31 out those duties, functions and powers at no additional cost to the department, using existing
32 department resources and without reallocation of department resources.”.